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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,874	10/22/2001	Neil Hepworth	4366-43	4659
48500	7590	06/19/2007		
SHERIDAN ROSS P.C. 1560 BROADWAY, SUITE 1200 DENVER, CO 80202			EXAMINER TRUONG, LAN DAI T	
			ART UNIT 2152	PAPER NUMBER
			MAIL DATE 06/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/028,874

Applicant(s)

HEPWORTH ET AL.

Examiner

Lan-Dai Thi Truong

Art Unit

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05/29/2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 31-56.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet for details.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


BUNJOB JARDENCHONWANIT
SUPERVISORY PATENT EXAMINER

1. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "a first endpoint transmitting first and second sets of packets, respectively, to a session monitor and a second endpoint; wherein the first and second sets of packets have differing information; wherein each packet is used for determining network performance information" are not persuasive; in Wan's network monitoring system, a plurality of RTCP monitors scan through RTCP packets exchanging between "computers 104/ and 108" those share functionality with "first endpoint and second endpoint" as claimed. The RTCP packets provide information on the traffic flow which is extracted by the RTCP monitors, and forwarded to central server for analyzing: column 4, lines 61-67; column 6, lines 1-57; figure 2, items 104, 108, 110)
2. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "each of the first and second endpoints has associated electronic address and session identifier" are not persuasive; in Wan's monitoring system, Real Time Control Protocol (RTCP) monitors are utilized to monitoring quality of services, and conveying information about the session participants; it would have been obvious in the art to know that "each session participant" which shares functionality with "endpoint" as claimed should be identified by network address and associated session identifier, see (column 4, lines 61-67; column 6, lines 1-57; column 5, lines 49-54; column 8, lines 6-19)
3. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "the first set of data structure comprising active session entries, each entry in the first set of data structures having at least network addresses for each of the endpoints to the corresponding session" are not persuasive; in Wan's network monitoring system, "a centralized server" which shares functionality with "data structures" as claimed is used to store monitored RTCP network performance information/ the network congestion statuses. It would have been obvious in the art to know that each network performance report entry in the centralized server should be indexed via electronic address and associated session identifier, see (column 8, lines 6-19)
4. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "determining whether at least one of the first endpoint's network address and session identifier correspond to an active session entry recorded in a second set of data structure, the second set of data structures having active session entries, each of the entries in the second set of data structures failing to comprise network addresses for each of the endpoints to the corresponding session; and when at least one of the first endpoint's network address and session identifier corresponding to an active session entry in the second set of data structure" are not persuasive; In Pruthi's network monitoring system, a network monitor monitors communication sessions between network computers; each entry of the Pruthi's communication sessions record includes a plurality of element such as record index, source address, destination address...etc. The recorder generator reads the previously stored indexed record to determine if existing common previous stored indexed record, then it combines a new record updated network performance information into the previous stored indexed record. The Pruthi's network monitor may recursively collect and analyze network performance data based on previously generated stored packets: ([0046]-[0048]; [0065]-[0066]; [0040])
5. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "voice information being associated with the second packet" are not persuasive; Pruthi discloses voice information transmitted over the network: (column 2, lines 20-25)
6. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "the first endpoint transmitting at least a second packet to a session monitor, the at least a second packet including the respective first and second network addresses of the first and the second endpoints and being associated with the first packet set" are not persuasive; Pruthi discloses the session monitor used for monitoring data packets sent/ and received from/ and to first computers C1 and second computer C2. It would have been obvious in the art to know that data packets should include the respective network addresses of the first computer C1/ and the second computer C2, see (abstract; figure 1; [0045]-[0047])
7. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "Voice over Internet protocol session" are not persuasive; Wan discloses technique of monitoring and controlling congestion for VoIP communications, see (Wan: abstract; column 4, lines 10-12; column 5, lines 64-67; column 7, lines 25-34)
8. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "a destination network address associated with a session monitor" are not persuasive; Wan discloses "network RTCP monitors (110)" which is interpreted as network destination as claimed used to monitor communications between communication participants (104/ and 108). Network address is inherently included in the network RTCP monitors, see (figure 1; column 5, lines 49-54)
9. Regarding applicant's arguments with respect to the references do not disclose claimed feature of: "a network address of a second participant to the Volp session" are not persuasive; Wan's network RTCP monitors can support for controlling VoIP communications between communication participants. The network address is inherently included in communication participant computers (104/ and 108), see (figure 1; column 5, lines 49-54)
10. Regarding to applicant's arguments with respect to the Wan does not disclose tracking active RTCP session are not persuasive; Wan's RTCP monitors used to monitor "real-time communication sessions" which shares functionality with "active sessions" as claimed between communication participants, see (figure 1; column 5, lines 49-54)
11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the use of first and second sets of data structures to contain network performance information respecting unidentified and identified session respectively, as showed in dependent claims 36, 37, 45, 50 and 53) and (i.e. dual uni-casting in which separate packets are transmitted to the other endpoint and performance monitor, as showed in claims 31, 40, 48 and 51) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

06/18/2007